

## 1 SENATE BILL NO. 445

2 INTRODUCED BY BARKUS, BARRETT, LANGE, F. THOMAS

3 BY REQUEST OF THE HOUSE JOINT SELECT COMMITTEE ON DISTRICTING AND APPORTIONMENT

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE TRANSITION SECTION OF THE DISTRICTING  
6 AND APPORTIONMENT PLAN THAT ASSIGNS HOLDOVER SENATORS TO NEW DISTRICTS; AND  
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."  
89 WHEREAS, the Montana Constitution and the verbatim transcripts of the 1972 Constitutional Convention  
10 do not address the assignment of holdover senators to districts following the drawing of new legislative districts  
11 pursuant to Article V, section 14, of the Montana Constitution; and12 WHEREAS, the Montana Supreme Court has consistently held that the Constitution is a limit on rather  
13 than a grant of legislative authority, beginning with *State ex rel. Evans v. Stewart*, 53 Mont. 18, 161 P. 309  
14 (1916); and15 WHEREAS, in spite of the lack of a constitutional limit on legislative authority, the Legislature has  
16 acquiesced in the assignment of holdover senators by the Districting and Apportionment Commission because  
17 of the fair and nonpartisan assignments that have traditionally occurred; and18 WHEREAS, the districting plan submitted to the 58th Legislature for review and comment proposed to  
19 assign holdover senators on partisan basis for future partisan gain; and20 WHEREAS, the Legislature enacted Senate Bill No. 258 as Chapter 4, Laws of 2003, to authorize the  
21 Legislature to assign holdover senators and prohibit the Districting and Apportionment Commission from  
22 assigning holdover senators prior to the Districting and Apportionment Commission's adoption of its final plan.  
2324 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
2526 NEW SECTION. Section 1. Repealer. Section 3 of the districting and apportionment plan of 2003, the  
27 transition provision assigning holdover senators to new legislative districts, is repealed.  
2829 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.  
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